

# INFORMATION LETTER

Not for  
Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## LOUISIANA FOOD LAW

### Further Information as to Regulations Governing Registration

The Association recently addressed a letter to Dr. J. A. O'Hara, President of the Louisiana State Department of Health, asking by whom registration in Louisiana should be made with respect to—

(1) Canned foods which are shipped by a distributor under his own label;

(2) Canned foods which for any reason are purchased from one canner by another and shipped under the label of the canner making such purchases (of course the label bearing the words "Packed for" "Distributed by" or equivalent expressions).

The following reply to these questions has been received from Dr. O'Hara:

"In reply to your first question as set forth in the second and third paragraphs of your letter, advise that we are following a registration procedure as suggested by you, viz: That a jobber will be required to register a canned product where he secures products from the stocks of several cannerys and places his own label thereon as distributor. As you indicate, it would certainly be unfair to attempt to impose responsibility for such products upon any canner from whom the jobber secures his stock. This procedure, in such cases, is intended to be included in rules and regulations which are being drawn up as authorized by the law.

"In answer to your second question as included in the fourth and fifth paragraphs of your letter, in the case of cannerys who secure products from other cannerys for any reason such as failure to pack any particular product, or due to shortage of stock of that product, the same procedure in registration will be followed as in the case of jobbers, viz: That the canner who affixes his label to the product and ships same under his own name will be held liable for the registration and the condition of the merchandise."

## COLOR IN TOMATO PRODUCTS

### Notice Issued to Manufacturers by Food and Drug Administration

The following announcement was issued by W. G. Campbell, Chief of the Food and Drug Administration, under date of September 10, 1936:

"It has long been the position of the Food and Drug Administration that label declaration of added color in foods brings the product into conformity with the Food and Drugs Act only when the color conceals no damage or inferiority. Evidence has developed that the practice of artificially coloring tomato paste and other comminuted tomato products often results in the concealment of damage or inferiority, or both.

"Attention of manufacturers is called to the fact that no form of label declaration will correct violations of this char-

acter, whatever the nature of the damage or inferiority which is masked by the added color."

As is customary with announcements of this type, this ruling is presumably not retroactive for goods already packed in good faith which bear adequate declaration of color. (The detailed requirements of the Food and Drug Administration regarding such explanatory statements on labels are discussed on page 16 of the pamphlet on "Labeling Canned Foods, Revised" issued by the National Canners Association in February, 1936.) However, when serious and obvious fraud is involved, as, for instance, when tomato products of such inferior color as to class them as sub-standard are artificially colored, immediate action may be taken.

## PRESERVE STANDARDS

### Federal Trade Commission Takes Action Towards Enforcement

Standards promulgated by the Secretary of Agriculture provide that preserves and jams shall contain not less than 45 pounds of fruit to 55 pounds of sugar. The National Preservers Association approves this standard and also desires to extend the same standard to jelly.

Some months ago the National Preservers Association requested the Federal Trade Commission to establish fair trade practice rules regarding the composition and labeling of fruit products of this general character, including the requirement that preserves, jams and jellies shall contain at least 45 pounds of fruit to 55 pounds of sugar. Hearings on this question were held by the Federal Trade Commission in Washington on June 15th and 16th and later in Chicago and Seattle. It has been generally expected that the Federal Trade Commission would issue such trade practice rules during the early part of September, but thus far no announcement on the subject has been given out.

Meantime, the Federal Trade Commission has instituted a "Cease and Desist" proceeding against certain manufacturers for the sale of preserves, jams, and jellies containing less than 45 pounds of fruit for each 55 pounds of sugar and labeling the product "Pure Jams," "Pure Jellies," and "Pure Preserves." It is evidently the opinion of the Federal Trade Commission that at least with this type of labeling that body has authority to take action under existing law without waiting for the promulgation of fair trade practice rules.

## GOVERNMENT CROP REPORTS

### Production Estimates Based Upon Conditions On September 1st

Following are summaries from the report issued by the U. S. Bureau of Agricultural Economics on various canning crops, based upon conditions as of September 1st:

## Green Peas

The preliminary estimate of production of green peas for canning in 1936 is about 35 per cent less than the estimated production in 1935 and 3 per cent less than the 5-year average production for the period 1928-32. The total production for 1936 is estimated at 175,290 tons compared with 268,120 tons in 1935, and with an average production for the 5-year period (1928-32) of 182,070 tons.

Based on the tonnages now estimated for canning in each State and reports on the average number of cases obtained per ton in 1936, it appears that the 1936 pack will total about 16,536,000 equivalent cases of 24 No. 2 cans. In 1935 the pack totaled 24,698,000 cases equivalent No. 2 cans.

The revised estimate of acreage planted in 1936 is 332,980 and compares with 341,360 acres planted in 1935. The revised estimate of acreage harvested in 1936 is 291,590 and compares with 315,040 acres harvested in 1935. The difference of 41,390 acres between planted and harvested acreage represents that acreage from which it is estimated no peas were harvested.

The average yield per acre is estimated at 1,200 pounds in 1936. This compares with an estimated yield for 1935 of 1,702 pounds, and a yield for the 10-year period (1923-32) of 1,760 pounds.

State	Harvested Acreage		Production	
	1935 Acres	1936 Acres	1935 Tons	1936 Tons
Maine.....	2,450	2,250	2,870	1,910
New York.....	34,200	38,200	23,600	13,180
Pennsylvania.....	4,850	5,000	5,260	4,250
Ohio.....	5,000	4,000	4,250	2,620
Indiana.....	7,950	7,750	9,340	6,010
Illinois.....	15,000	18,000	10,350	12,240
Michigan.....	13,500	14,500	8,840	7,030
Wisconsin.....	123,000	90,000	75,640	42,750
Minnesota.....	24,000	20,000	26,640	13,900
Delaware.....	3,400	2,800	4,420	1,500
Maryland.....	18,500	16,300	21,740	9,860
Virginia.....	5,200	5,500	7,540	3,020
Montana.....	2,400	1,760	2,950	1,500
Colorado.....	3,820	3,560	3,630	3,510
Utah.....	13,600	12,250	22,640	11,640
Washington.....	15,000	19,700	15,000	17,430
Oregon.....	8,180	15,550	7,160	12,750
Other States <sup>a</sup> .....	14,990	14,470	16,250	10,190
Total.....	315,040	291,590	268,120	175,290

<sup>a</sup>"Other States" include California, Idaho, Iowa, Kansas, Nebraska, New Jersey, Oklahoma, Oregon (prior to 1934), Tennessee, Virginia (prior to 1934), and Wyoming.

## Cabbage for Kraut

The indicated production of cabbage for kraut, according to the September 1 reports on condition and probable yield per acre, is about 68 per cent of the 1935 production and 55 per cent of the average production for the 5-year period (1928-32). A total production of 91,400 tons is in prospect

for 1936. This indicates the smallest crop of cabbage for kraut since 1925, when 90,200 tons were harvested. The estimated production for 1935 was 134,800 tons and the average production for the 5-year period (1928-32) was 165,700 tons.

The total of 91,400 tons estimated for 1936 includes tonnage of kraut cabbage expected from both the open-market and contracted acreages. Conservative allowance was made for open-market acreage and tonnage according to the past relationship between contract and open-market tonnages and in line with packers' previous reports on the percentage of total kraut cabbage requirements which they expected to obtain from open-market purchases in 1936.

State	Acreage		Production	
	Har- vested 1935 Acres	Planted 1936 Acres	1935 Tons	Indi- cated 1936 Tons
New York.....	5,050	5,300	57,600	30,700
Ohio.....	1,200	1,400	12,600	10,500
Indiana.....	1,000	1,100	5,000	4,400
Illinois.....	900	900	5,400	2,200
Michigan.....	900	1,000	6,600	4,500
Wisconsin.....	5,060	4,360	27,300	20,100
Minnesota.....	180	150	1,100	500
Colorado.....	270	220	2,800	2,200
Washington.....	440	450	3,000	2,700
Other States <sup>a</sup> .....	1,500	3,110	13,400	13,600
Total.....	16,500	17,990	134,800	91,400

<sup>a</sup>"Other States" include Iowa, Maryland, New Jersey, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Utah, and Virginia.

## Lima Beans

A preliminary forecast of the 1936 production of green lima beans, as of September 1, indicates a crop of 20,470 tons for canning purposes (including frozen pack). This compares with 15,660 tons harvested in 1935 and 12,620 tons, the 4-year (1929-32) average production.

The September 1 indicated yield per acre of 1,186 pounds compares with 1,141 for 1935. The average yield for the 4-year (1929-32) period was 988 pounds per acre.

State	Acreage		Production	
	Har- vested 1935 Acres	Planted 1936 Acres	1935 Tons	Indi- cated 1936 Tons
New Jersey.....	4,100	6,500	2,460	3,410
Delaware.....	7,600	9,000	4,480	6,300
Maryland.....	3,000	3,320	1,530	2,410
Virginia.....	5,300	5,300	3,440	3,440
Michigan.....	2,760	3,600	1,540	1,570
Other States <sup>a</sup> .....	4,700	6,810	2,210	3,340
Total.....	27,460	34,530	15,660	20,470

<sup>a</sup>"Other States" include Colorado, Georgia, Illinois, Indiana, Minnesota, New York, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Washington, and Wisconsin.

**Pimientos**

September 1 reports on the condition and probable yield per acre of pimientos for canning or manufacture in California and Georgia indicate a probable production of 16,120 tons compared with 20,790 tons produced in 1935 and an average for the 5-year period (1928-32) of 15,000 tons.

The indicated yield for 1936 in Georgia is 1.2 tons and compares with 1.37 tons produced in 1935 and an average of 1.67 tons for the 7-year period (1926-32). The indicated yield for California is 2.7 tons per acre and is slightly below the yield secured in 1935 but about in line with average yields for that State for the 7-year period (1926-32).

State	Acreage		Production	
	Har-vested	Planted	1935	Indi-cated
	1935	1936	1935	1936
	Acres	Acres	Tons	Tons
California.....	1,360	1,170	4,080	3,160
Georgia.....	12,200	10,800	16,710	12,960
Total.....	13,560	11,970	20,790	16,120

**Condition of Sweet Corn and Tomatoes**

State	Sweet Corn		Tomatoes	
	Sept. 1, 1935	Sept. 1, 1936	Sept. 1, 1935	Sept. 1, 1936
	Per cent	Per cent	Per cent	Per cent
Maine.....	88	88	..	..
New Hampshire.....	89	90	..	..
Vermont.....	80	85	..	..
New York.....	86	51	80	64
New Jersey.....	..	..	82	79
Pennsylvania.....	63	80	75	77
Ohio.....	74	41	81	78
Indiana.....	78	30	67	69
Illinois.....	87	45	76	57
Michigan.....	74	52	59	63
Wisconsin.....	73	30	..	..
Minnesota.....	77	48	..	..
Iowa.....	69	33	68	30
Nebraska.....	50	2	..	..
Missouri.....	..	..	36	5
Delaware.....	85	95	83	80
Maryland.....	70	87	76	78
Virginia.....	..	..	75	60
Kentucky.....	..	..	69	50
Tennessee.....	85	70	62	48
Arkansas.....	..	..	35	5
Colorado.....	..	..	87	77
Utah.....	..	..	53	87
California.....	..	..	85	85
Other States*.....	80	76	62	56
U. S. Average.....	77.9	48.1	70.1	67.1

\*For Sweet Corn "Other States" include Colorado, Idaho, Kansas, Montana, Oklahoma, Oregon, South Dakota, Virginia, Washington, and Wyoming. For Tomatoes "Other States" include Connecticut, Florida, Georgia, Idaho, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Texas, Washington, West Virginia, and Wisconsin.

**Condition of Snap Beans**

State	Sept. 1, 1933	Sept. 1, 1934	Sept. 1, 1935	Sept. 1, 1936
	Per cent	Per cent	Per cent	Per cent
	Per cent	Per cent	Per cent	Per cent
Maine.....	89	86	86	90
New York.....	51	60	84	60
Pennsylvania.....	60	64	55	65
Indiana.....	47	58	64	36
Michigan.....	63	52	75	53
Wisconsin.....	66	72	72	43
Delaware.....	77	76	76	80
Maryland.....	63	48	65	88
South Carolina.....	20	70	50	10
Tennessee.....	60	85	68	51
Mississippi.....	10	80	90	50
Arkansas.....	45	22	50	15
Louisiana.....	60	75	74	50
Colorado.....	84	44	85	60
Utah.....	83	70	73	85
Washington.....	90	90	62	70
Oregon.....	82	94	88	88
California.....	90	90	90	85
Other States*.....	58	55	54	46
U. S. Average.....	58.1	58.9	70.4	58.6

\*"Other States" include Alabama, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Missouri, Montana, North Carolina, Nebraska, New Hampshire, New Jersey, New Mexico, Ohio, Oklahoma, Texas, Vermont, Virginia, and Wyoming.

**Condition of Beets**

State	3-yr. av. 1930-32	Sept. 1, 1935	Sept. 1, 1936
	Per cent	Per cent	Per cent
	Per cent	Per cent	Per cent
New York.....	78	77	54
New Jersey.....	89	80	50
Indiana.....	72	80	40
Michigan.....	70	91	63
Wisconsin.....	61	81	60
Oregon.....	71	60	90
Other States*.....	75	76	61
U. S. Average.....	70.9	78.7	59.9

\*"Other States" include Colorado, Iowa, Kansas, Maryland, Minnesota, Oklahoma, Ohio, Pennsylvania, Tennessee, Utah, and Washington.

**Cold Storage Holdings of Fishery Products**

Cold storage holdings of fishery products in the United States on August 15th were 28 per cent greater than a year ago, and 38 per cent greater than the five-year average, according to the U. S. Bureau of Fisheries. Holdings on August 15th amounted to 76,098,000 pounds, compared with 59,353,000 pounds on August 15, 1935, and the five-year average of 55,187,000 pounds. During the month ending August 15th, 23,323,000 pounds of fishery products were frozen, compared with 17,718,000 pounds frozen in the corresponding period of 1935, the report stated.

## NECROLOGY

**Dr. Jordan, Long Associated with Food Research Work, Passes Away**

Dr. Edwin Oakes Jordan, for many years head of the Department of Hygiene and Bacteriology of Chicago University, died in Lewiston, Maine, on September 2nd.

Dr. Jordan directed the research work on illnesses attributed to bacterial infection of foods, which has been carried on at Chicago University since 1922 under an annual grant from the National Canners Association. The results of this work have led to a far better understanding of this subject, particularly among physicians and public health workers.

Dr. Jordan's character and scientific ability gave him a very high standing in his profession, both nationally and internationally. Among many other distinctions accorded to him were membership in the National Academy of Sciences and the International Health Board of the Rockefeller Foundation.

Among Dr. Jordan's chief characteristics were his great modesty, his genial personality and his high ethical standards. His death means a great loss to the scientific world, as well as to his host of friends.

Percy L. Cohen, at London, England, September 2nd; chairman of Henry W. Peabody & Company, and well known to American canners engaged in the export trade.

Hubert G. Maxson, at San Francisco, California, aged 46; vice president and general manager of F. E. Booth Co., Inc., with which he has been associated for 20 years.

Carl Wolff, at London, England, August 20th, aged 52; associated for many years with the California fruit industry and at the time of his death head of a company in London bearing his name.

**Indexes Relating to Sale of Canned Foods**

The following indexes were obtained from published reports of the Bureau of Labor Statistics and are based on the average for 1923-25 as 100 per cent for Employment, Payrolls and Retail Prices. Wholesale prices are based on 1926 as 100 per cent.

	Employment			Payrolls		
	July 1936	June 1936	July 1935	July 1936	June 1936	July 1935
All industries...	86.8	86.0	79.7	77.8	78.7	64.8
Canning.....	125.8	91.3	150.0	135.0	100.3	177.8

	Wholesale Prices				
	Aug. 29, 1936	Aug. 22, 1936	Aug. 15, 1936	Aug. 8, 1936	Aug. 31, 1935
All commodities..	81.2	81.5	81.1	81.1	80.5
All foods.....	82.5	82.8	82.6	82.9	86.0

	Retail Prices			
	Aug. 18, 1936	July 14, 1936	June 16, 1936	Aug. 13, 1935
All foods.....	84.0	84.0	83.8	79.6
Fresh fruits and vegetables..	74.0	81.9	87.1	52.4
Canned fruits and vegetables.....	80.4	78.8	78.3	83.5

**Fruit and Vegetable Market Competition**

Carlot Shipments as Reported by the Bureau of Agricultural Economics, Department of Agriculture

VEGETABLES	Week ending			Season total to	
	Sept. 5 1935	Sept. 5 1936	Aug. 29 1936	Sept. 5 1935	Sept. 5 1936
Beans, snap and lima	5	5	15	9,521	7,935
Tomatoes.....	304	438	302	19,381	19,583
Green peas.....	162	135	168	6,462	6,486
Spinach.....	2	19	14	5,483	7,493
Others:					
Domestic competing directly....	2,675	2,528	1,983	117,932	131,631
Imports competing indirectly.....	11	13	2	14	16
FRUITS					
	Sept. 5 1935	Sept. 5 1936	Aug. 29 1936	Sept. 5 1935	Sept. 5 1936
Citrus, domestic....	1,634	1,407	1,467	140,994	124,313
Imports.....	45	66	67	136	248
Others, domestic....	5,206	4,862	6,215	43,593	45,081

**Correction**

In an item in the INFORMATION LETTER for September 5th on "Insect Infestation of Tomatoes" reference was made to an item on the same subject previously published in the LETTER. This reference should have been to the INFORMATION LETTER for July 29, 1933, instead of May 27th of that year.

**Rainfall and Temperature Records**

The following table gives the average temperature and total rainfall for the principal crop growing districts for each of the last two weeks, as shown by the U. S. Weather Bureau reports for selected stations in these districts:

DISTRICT	Week ended Sept. 1, 1936		Week ended Sept. 8, 1936	
	Temp.	Rain	Temp.	Rain
Maine.....	62	.5	61	1.3
Western New York.....	65	.5	67	.3
Tri-States.....	74	3.4	72	.1
South Central Ohio.....	73	3.2	71	.4
Central Indiana.....	75	2.2	79	1.0
Central Illinois.....	76	.3	75	.8
Northern Illinois, Southern Wisconsin.....	68	2.4	70	.9
Southern Minnesota.....	66	1.2	72	.2
Northern Colorado.....	73	.0	72	.0
Northern Utah.....	73	.0	68	.1
Northwestern Washington.....	67	.5	63	.1
Southeastern Washington.....	72	.0	68	.9

**COST OF LIVING****Relative Changes in Food Prices and Earnings of Employed Persons**

Employed persons can buy more food with their present earnings than they were able to buy in 1929, according to a press statement by the Agricultural Adjustment Administration. The statement relates to all foods when considered as a group. The above conclusion was based on reports on factory employment and payrolls and retail food prices made by the Bureau of Labor Statistics.

The earnings of each person employed were calculated by dividing the total payrolls by the number of people employed. The earnings per person were then divided by the



index of retail food prices to determine the amount of food which could have been purchased at retail during 1929 and also for July, 1936.

There are two significant facts in this report, first that the earnings of employed people are advancing and that retail prices of foods have not advanced as rapidly as earnings and that the purchasing power of earnings is greater at the grocery store than were the earnings in 1929. It should be of interest to consumers to know that the purchasing power of their earnings is greater for some of the foods which go to make up this group than for others. A specific example is the case of canned fruits and vegetables. Consumers' earnings in August, 1936, go farther in the purchase of canned fruits and vegetables than in the purchase of foods in general and also would purchase more canned fruits and vegetables than their 1929 earnings would have bought.

Food prices have been advancing rapidly during the last few months largely because of the drought and short crops. Prices of canned fruits and vegetables have likewise advanced during this period, but because of the very low level of the prices of canned foods during last year, current prices in spite of the recent advances are lower for canned foods than for all foods taken as a whole. The index of retail prices of all foods on August 18 was 84 per cent of the 1923-25 average, whereas on the same date the prices of canned fruits and vegetables were only 80.4 per cent. The index of factory payrolls during July stood at 78 per cent of the 1923-25 average and employment at 87 per cent.

Using the method explained above for calculating earnings, we find that the earnings of employed persons during July were about 88 per cent of the 1929 earnings which is used as 100 per cent. That is to say, earnings and retail food prices are both lower than they were in 1929 but since the earnings are closer to the 1929 level than are the retail prices of food, the earnings for employed persons during July of this year would purchase about 9 per cent more food than their earnings in 1929 would buy. A similar comparison shows that about 13 per cent more canned fruits could have been purchased with the earnings per employed person during July than the 1929 earnings would buy.

### Department Store Sales in August

Department store sales increased from July to August by less than the usual amount and the Federal Reserve Board's seasonally adjusted index was 86 per cent of the 1923-1925 average, as compared with 91 per cent in July and 87 per cent in June. Total sales in August were 7 per cent larger than a year ago, although the month had one less business day this year. In the first eight months sales were 10 per cent larger than in the corresponding period of last year.

### PROGRAM FOR VEGETABLE CROPS

#### A. A. A. Official Discusses Problem Before Vegetable Growers Association

Mr. J. D. Hutson of the Agricultural Adjustment Administration addressed the 28th annual convention of the Vegetable Growers Association of America at Cleveland on September 10, and the following excerpts from his address will be of interest to canners:

The acreage of all commercial truck crops grown for canning and fresh market increased at an average rate of 149,000 acres or 2.5 per cent per year from 1926 to 1935. At the same time, the per acre farm value of these crops declined at an average rate of \$7.50 or 5 per cent per year.

From 1924 to 1928 there were about 6,000,000 acres in commercial truck crops, including potatoes and strawberries. By 1931, this total had been expanded to 7,000,000 acres. There was a drop in 1933 to about 6,750,000 acres but in 1934 the acreage rose to 7,335,000 and in 1935 it reached 7,574,000 acres. This year, truck growers planted an acreage near that of 1934 but yields were reduced because of drought conditions in some areas.

From 1926 to 1930, the average per acre farm value of commercial truck crops was \$117. The average value declined to a low of \$53 per acre in 1932 and the average for the last five years has been only \$64 per acre. In spite of an average increase of 623,000 acres in the truck crop area in the 1931-1935 period over the 1926-1930 average, the average annual farm value of these crops was actually \$290,000,000 lower.

There is a marked distinction between truck crops produced for fresh market shipment and truck crops for canning. Slightly more than half of the truck acreage has been used since 1926 to produce vegetables and melons for fresh market shipment. The balance is used for canning crops. A large proportion of the annual tonnage for canning is contracted for in advance by canners and prices received by growers of canning crops are consequently relatively stable within a particular season. However, low prices for fresh vegetables mean by and large low prices for canned vegetables.

Growers of truck for market shipment are faced with a number of difficult problems. Prices fluctuate considerably, sometimes drastically, within a season and there are sharp differences in prices according to grades and sizes. As the major producing areas are located a considerable distance from the major consuming areas, charges for transportation and marketing are a much larger part of the price paid at terminal markets than is the return received by the growers. In 1935, for example, about 80 per cent of the price of lettuce, peas, and cauliflower shipped from the States of Washington and Colorado to Chicago was required for transportation and other selling costs. In the same year watermelon growers in Georgia, South Carolina and other Southeastern States received only about 25 per cent of the New York auction price. The balance went for transportation and marketing costs.

Growers' returns depend directly on terminal market prices regardless of whether they sell on an f.o.b. or a consignment basis. If selling on consignment, they have to pay the direct market charges before receiving a cash return for their crop. If selling f.o.b., they receive a price in which an allowance is made for marketing charges in relation to terminal market prices. In either case, the price to growers is what is left after the marketing costs have been deducted from the sale price in the consuming market. Because these charges are relatively fixed, growers have borne most of the direct burden of the recent low prices.

We hope during the coming weeks to explore fully the possibilities for the development of a conservation program that is adapted to the needs of truck and vegetable growers. In this endeavor, we shall need and seek advice of truck and vegetable growers. In the last analysis a program that will benefit them must be one that they have shaped.

A program for truck crop production will require consideration under one broad heading of 23 major vegetable crops and a number of lesser ones. Production is neces-

sarily highly seasonal in order to provide a year-round supply of fresh vegetables. Production costs and yields per acre vary greatly in the different producing areas. Soil types vary and certain areas are irrigated while others are not. The problem is further complicated by the growing for canning of an acreage nearly as great as that devoted to the production of truck crops for fresh market. The practice, during a 12-months period, of growing two or three different crops on the same land in certain areas adds to the problem of arriving at a fair and equitable basis for a soil-conservation program for truck crops.

We already are at work on these problems. Several proposals have been made. At least one committee, made up of truck and vegetable growers and agricultural college specialists, has made an exhaustive study of the whole truck crop situation and the possibilities for a program under the provisions of the Agricultural Conservation and Domestic Allotment Act.

Some of the proposals provide for the classification of vegetable crops into different categories with provisions for the maintenance of an acreage of these crops sufficient to supply the demands of consumers at reasonable prices. Payments would be made for the planting of soil-conserving crops and adoption of soil-conserving practices. The amount of these payments would depend upon the cost of growing the soil-conserving crops or adopting the soil-building practices and the value of the truck and vegetable crops grown.

Other proposals would provide for the use of soil-conserving crops in the double and triple cropping system used by truck and vegetable growers, with a correspondingly higher rate for land cropped in this manner.

Every group with whom I have conferred has recognized that the program must provide for continuous and adequate supplies of truck and vegetable crops. This is in line with the provisions of the Soil Conservation and Domestic Allotment Act.

### AUSTRALIAN A. A. A. HELD INVALID

#### Marketing Agreement Statute Unconstitutional Under Australian Federal Constitution

In an opinion of some general interest to the canning industry, the Judicial Committee of the Privy Council on July 17th last held unconstitutional the Dried Fruit Act of the Commonwealth of Australia. Under this statute a processor, dealer, or any other person having dried fruits in his possession was prohibited from shipping them across State lines unless he first obtained a license from the Minister of State for Commerce of Australia. The condition of issuing the license was that the licensee would have to agree to export from Australia a certain percentage of dried fruits produced, processed or in his possession. This particular Act was part of a general scheme for regulating production and exports somewhat similar to the Agricultural Adjustment Act. The Australian Constitution is modeled after the American Federal Constitution in that the Commonwealth has only delegated powers. In addition, a section of the Australian Constitution specifically provided that intercourse among the States should be absolutely free.

The plaintiff had refused to take out a license and had had several shipments of dried fruit seized. He sued to recover damages on account of such seizures. The High Court of Australia upheld the Australian Federal Government and

a special appeal was taken to the Judicial Committee of the Privy Council, to which appeals from the Supreme Courts of the various dominions may be taken. The Judicial Committee of the Privy Council overruled the High Court of Australia and held that the plaintiff could recover damages on account of the unlawful seizure. In the course of an elaborate opinion (which made no reference to the *Hoosac* decision), the Judicial Committee stated:

"The result is that, in their Lordships' judgment, the Commonwealth should be held to have failed in their attempt by the method adopted under the Act in question to control prices and establish a marketing system, even though the Commonwealth Government are satisfied that such a policy is in the best interests of the Australian people. Such a result cannot fail to cause regrets. But these inconveniences are liable to flow from a written Constitution. Their Lordships cannot arrive at any conclusion save that they could not give effect to the respondents' contention consistent with any construction of the Constitution which is in accord with sound principles of interpretation. To give that effect would amount to re-writing, not to construing, the Constitution. That is not their Lordships' function. The Constitution, including section 92, embodied the will of the people of Australia and can only be altered by the will of the people of Australia. \* \* \*

### Publications of Interest to Canners

The Department of Agriculture has issued in a separate publication the statistics heretofore appearing in the Yearbook of Agriculture, and has also changed the character of the Yearbook. In past years the Yearbook has presented brief summaries of miscellaneous new developments in agriculture. The 1936 Yearbook is devoted to a single subject—the creative development of new forms of life through plant and animal breeding.

The Census Bureau has issued Volume I of the 1935 Census of Agriculture. This volume covers as its principal subjects, general farm data, farm acreage, uses of land, value of farm land and buildings, and farm population; the acreage and production of crops; the number of livestock by principal classes and age groups; and the production of specified livestock products. The statistics in this volume are by counties, with state and United States summaries. It is sold by the Government Printing Office at \$2.50 per copy.

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